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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/133,960	08/14/1998	RAJIV V. JOSHI	YO998-195-(7	7273

46069 7590 02/29/2012

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ART UNIT	PAPER NUMBER
2424	

NOTIFICATION DATE	DELIVERY MODE
02/29/2012	ELECTRONIC

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RAJIV V. JOSHI and SUCHITRA R. JOSHI

Appeal 2009-011143
Application 09/133,960
Technology Center 2400

Before JOSEPH F. RUGGIERO, MARC S. HOFF, and
CARLA M. KRIVAK, *Administrative Patent Judges*.

RUGGIERO, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Final Rejection of claims 1, 3-31, and 33-44. Claims 2 and 32 have been canceled. We have jurisdiction under 35 U.S.C. § 6(b).

We reverse.

Rather than reiterate the arguments of Appellants and the Examiner, we refer to the Appeal Brief (filed Jan. 12, 2009), the Answer (mailed Feb.

17, 2009), and the Reply Brief (filed Apr. 17, 2009) for the respective details.

Appellants' Invention

Appellants' invention relates to the wireless transmission via satellite of signals to and from an electronic medium, such as a television. An interactive user interface is provided using conventional devices such as television display screen. *See generally* Spec. 1:14-2:3.

Claim 1 further illustrates the invention and reads as follows:

1. A wireless information signal transfer and interactive television system comprises:

at least a first communication system, operatively coupled to a television set, comprising a first RF transceiver unit and a first data processing unit for generating at least one information signal and for generating at least one display signal for display on the television set;

a wireless signal transfer network, operatively coupled to the at least a first communication system, for wirelessly transferring signals including the at least one information signal;

at least a second communication system operatively coupled to the wireless transfer network, comprising a second RF transceiver unit and a second data processing unit for receiving and processing the at least one information signal; and

a server, operatively coupled to the at least a second communication system, for receiving and processing the at least one information signal and providing data included in the information signal to a functional network,

wherein the server retrieves return data from the functional network and provides the return data to the at least a second communication system, the at least a second communication system generating at least one return information signal and providing the at least one return information signal to the wireless signal transfer network, the wireless signal transfer network wirelessly transferring the at least one return information signal to the at least a first communication system, which generates the at least one display signal for display on the television set, wherein the at least one information signal and the at least one return information signal are independently transmitted from a television signal.

The Examiner's Rejections

The Examiner's Answer cites the following prior art references:

Arledge	US 5,561,703	Oct. 1, 1996
Cunningham	US 5,991,596	Nov. 23, 1999 (filed Oct. 24, 1996
Yuen	US 5,812,931	Sep. 22, 1998 (filed June 19, 1997)
Krisbergh	US 5,999,970	Dec. 7, 1999 (filed Apr. 10, 1996)
Lancelot	US 6,026,086	Feb. 15, 2000 (filed Jan. 8, 1997)
Gorman	US 6,141,356	Oct. 31, 2000 (filed Nov. 10, 1997)
Schein	US 6,263,501 B1	July 17, 2001 (eff. filed Apr. 19, 1996)
Yasuki	US 6,285,407 B1	Sep. 4, 2001 (filed Feb. 27, 1998)
Tyroler	US 6,320,941 B1	Nov. 20, 2001 (filed Jan. 8, 1998)

Claims 1, 3-5, 8-11, and 33 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot.

Claims 6 and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot and Gorman.

Claims 12-14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot and Arledge.

Claims 15 and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot and Cunningham.

Claims 17 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot and Tyroler.

Claims 19-22, 26-28, 34, and 35 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot and Schein.

Claims 23 and 24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot, Schein, and Yuen.

Claim 25 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot, Schein, Yuen, and Arledge.

Claims 29-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot, Schein, and Cunningham.

Claims 36-39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot and Yasuki.

Claim 40 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot, Yasuki, and Arledge.

Claim 41 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot, Yasuki, and Cunningham.

Claims 42 and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot, Yasuki, and Tyroler.

Claim 44 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Krisbergh in view of Lancelot, Yasuki, and Schein.

ANALYSIS

Claims 1, 3-5, 8-11, and 33

Appellants' arguments, with respect to the obviousness rejection of independent claim 1, at pages 17-19 of the Appeal Brief and pages 18 and 19 of the Reply Brief focus on the contention that the Examiner has not established a proper basis for the proposed combination of Krisbergh and Lancelot. According to Appellants, to whatever extent Lancelot may disclose that a return signal from a network is transmitted independently from a television signal, the Examiner has not explained how the teachings of Lancelot would be applied to Krisbergh since, by necessity, the return of Internet access information in Krisbergh is commingled in the vertical blanking intervals of the television signals.

We agree with Appellants. Initially, we note that our interpretation of the disclosure of Krisbergh coincides with that of Appellants, i.e., return data from an information source, such as the Internet, is inserted into the vertical blanking intervals of the broadcast television signal (Figs 1 and 2A, col. 7, ll. 27-67 an col. 9, l. 1-18). In other words, as argued by Appellants, the Internet information source signals in Krisbergh are necessarily commingled with, and are not independent from, the television signals since they are inserted into the vertical blanking intervals of the television signals.

Given this disclosure of Krisbergh, we find that the Examiner has not satisfactorily explained how and in what manner Krisbergh would be modified by the independent television channel and return information channel teachings of Lancelot to arrive at the claimed invention. We understand the Examiner's position to be that an ordinarily skilled artisan would have found it obvious to modify Krisbergh to provide independent transmission of data signals and television signals using "different networks, different time slot, or different channels, etc." (Ans. 8).

We agree with Appellants, however, that modifying Krisbergh in such a manner would fundamentally alter the principle of operation of Krisbergh which relies upon the commingling, i.e., the interdependence, of Internet source signals and television signals (App.Br. 18-19; Reply Br. 18-19). It is well settled that if the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teaching of the references are not sufficient to render the claims prima facie obvious. *See In re Ratti*, 270 F.2d 810, 813 (CCPA 1959).

Further, although the Examiner asserts (Ans. 31) that Krisbergh does not prohibit the independent transmission of return information signals and television signals, Krisbergh has no teaching or suggestion of any transmission except the interdependent commingling of television and return information signals. In our view, given the disparity of problems addressed by the applied prior art references, and the differing solutions proposed by them, any attempt to combine them in the manner proposed by the Examiner could only come from Appellants' own disclosure using hindsight reconstruction.

In view of the above discussion, since we are of the opinion that the proposed combination of references set forth by the Examiner does not support the obviousness rejection, we do not sustain the rejection of independent claim 1, nor of claims 3-5, 8-11, and 33 dependent thereon.

Claims 6, 7, 12-31, and 34-44

We also do not sustain the obviousness rejections of claims 6, 7, 12-31, and 34-44 in which the Examiner has applied various additional reference to the combination of Krisbergh and Lancelot. We find nothing in these additional references, taken individually or collectively, which overcomes the innate deficiencies of the combination of Krisbergh and Lancelot as discussed *supra*.

CONCLUSION OF LAW

Based on the analysis above, we conclude that the Examiner erred in rejecting claims 1, 3-31, and 33-44 for obviousness under 35 U.S.C. § 103(a).

DECISION

The Examiner's 35 U.S.C. § 103(a) rejection of claims 1, 3-31, and 33-44, all of the appealed claims, is reversed.

REVERSED

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